

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

DEMETRIUS LEE,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 5:12-CV-97 (MTT)
)	5:12-CV-136
)	
CARL HUMPHREY,)	
)	
Defendant.)	
)	

ORDER

Before the Court is the Order and Recommendation of Magistrate Judge Stephen Hyles. (Doc. 173). The Magistrate Judge recommends granting the Defendant's motion to dismiss (Doc. 89) Plaintiff Demetrius Lee's complaint¹ because the Plaintiff abandoned his Eighth Amendment claims in his motion to amend the complaint filed on March 11, 2013 (Doc. 128) and because his Fourteenth Amendment procedural due process claim² based on being transferred to the Special Management Unit ("SMU") of the Georgia Diagnostic and Classification Prison ("GDCP") fails to state a claim.³ The

¹ The complaint is filed in *Lee v. Humphrey*, 5:12-CV-136, at Doc. 1. This case, along with several others, was consolidated with *Gholston v. Humphrey*, 5:12-CV-97, on November 1, 2012. (Doc. 29).

² The complaint also alleges the Plaintiff's "property is consistently confiscated for months at a time without any type of hearing." *Lee*, 5:12-CV-136, Doc. 1 at 5. To the extent the complaint can be read as alleging a separate Fourteenth Amendment claim based on deprivation of personal property, that claim fails because the State of Georgia provides an adequate post-deprivation remedy. See *Johnson v. Owens*, 2014 WL 6620938, at *3 & n.8 (M.D. Ga.).

³ The Magistrate Judge also recommends dismissing the "John/Jane Doe" defendants because the Plaintiff has made no attempt to identify them.

Magistrate Judge granted the Plaintiff's motion to amend in part, dismissing the Plaintiff's Eighth Amendment claims per his request, but denied the motion regarding his Fourteenth Amendment claims because the complaint as amended would still be subject to dismissal. The Plaintiff has not objected to the Recommendation.

The Court has reviewed the Recommendation, and the Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation is **ADOPTED** and made the order of this Court. Accordingly, the Defendants' motion to dismiss (Doc. 89) is **GRANTED** and the Plaintiff's complaint is **DISMISSED without prejudice**.

SO ORDERED, this 10th day of December, 2014.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT